

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 21, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ALLAN MARGITAN, married and
acting individually,

Plaintiff,

v.

SPOKANE COUNTY, a municipal
corporation,

Defendant.

NO. 2:22-CV-0173-TOR

ORDER DENYING PLAINTIFF'S
MOTION TO VACATE

BEFORE THE COURT is Plaintiff's Motion to Vacate Court's January 26, 2023 Order (ECF 17) Under Rule 59(e). ECF No. 19. This matter was submitted for consideration without oral argument, but Plaintiff requested oral argument. ECF No. 19 at 1. The Court finds oral argument not warranted. LCivR 7(i)(3)(B)(iii). The Court has reviewed the record and files herein and is fully informed. For the reasons discussed below, Plaintiff's Motion to Vacate Court's January 26, 2023 Order (ECF 17) Under Rule 59(e), ECF No. 19, is **denied**.

1 “A motion to alter or amend a judgment must be filed no later than 28 days
2 after entry of the judgment.” Fed. R. Civ. P. 59(e). Here, Plaintiff’s Rule 59
3 motion was timely filed. ECF Nos. 18, 19.

4 Motions for reconsideration are generally disfavored. “Reconsideration is
5 appropriate if the district court (1) is presented with newly discovered evidence, (2)
6 committed clear error or the initial decision was manifestly unjust, or (3) if there is
7 an intervening change in controlling law.” *Sch. Dist. No. 1J, Multnomah Cty., Or.*
8 *v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993); *United Nat. Ins. Co. v.*
9 *Spectrum Worldwide, Inc.*, 555 F.3d 772, 780 (9th Cir. 2009). “There may also be
10 other, highly unusual, circumstances warranting reconsideration.” *Sch. Dist. No.*
11 *1J*, 5 F.3d at 1263.

12 Plaintiff argues the Court committed clear error by reciting arguments used
13 in his opposition to Defendant’s Motion to Dismiss. *See* ECF No. 19. The Court
14 laid out several bases for granting Defendant’s Motion to Dismiss, including (1)
15 Plaintiff’s constitutional claims fail where Plaintiff failed to allege a Spokane
16 County policy or custom violated his constitutional rights, (2) Plaintiff’s claims are
17 barred by accord and satisfaction, and (3) Plaintiff’s nuisance claim is barred by
18 the statute of limitations. ECF No. 17. Plaintiff has not shown the Court has
19 committed clear error, nor has he otherwise shown he is entitled to the requested
20 relief.

1 **ACCORDINGLY, IT IS HEREBY ORDERED:**

2 Plaintiff's Motion to Vacate Court's January 26, 2023 Order (ECF 17)

3 Under Rule 59(e), ECF No. 19, is **DENIED**.

4 The District Court Executive is directed to enter this Order and furnish
5 copies to the parties. The file remains **CLOSED**.

6 DATED March 21, 2023.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
United States District Judge